

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 16,373
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare withholding a portion of her retroactive SSI benefits as reimbursement for general assistance (GA) paid to the petitioner during the pendency of her SSI application. The issue is whether such withholding and recovery is consistent with the pertinent regulations and with the terms of the "Recovery of Assistance (RA) Agreement" signed by the petitioner before she received GA.

FINDINGS OF FACT

1. The facts are not in dispute. The petitioner is disabled and was a regular recipient of GA benefits. Sometime in 1997 she applied for SSI. Her initial application for SSI was denied and her appeals remained pending until January 2000, when she was notified that she had been found eligible retroactive to the date of her application. The amount of her initial retroactive SSI payment was about \$9,000.

2. On October 6, 1997, the petitioner signed a "Recovery of Assistance Agreement" with the Department whereby she agreed that as a condition of receiving GA her initial SSI check would be sent to the Department which

would deduct from it the total amount of GA the Department had paid to the petitioner during the period for which she was retroactively found eligible for SSI.

3. The petitioner was paid about \$6,000 in GA by the Department during the period in which she was found retroactively eligible for SSI. In January 2000, the Social Security Administration sent the Department the petitioner's initial retroactive SSI check of \$9,000. The Department withheld \$6,000 of this amount in accordance with the express terms of the recovery agreement and it forwarded a check for the remaining amount (about \$3,000) to the petitioner.

4. The petitioner does not dispute the Department's calculation of the amount of GA she received during the pendency of her SSI. She also does not dispute that she signed and understood the recovery agreement from 1997. She maintains that she has recurring medical expenses that aren't covered by Medicaid or other insurance and that as a matter of hardship she should not be subject to the Department's recovery of GA from her initial SSI payment.

ORDER

The Department's decision is affirmed.

REASONS

The Department's authority to withhold from a GA recipient's initial SSI check the amount of GA that has been paid by the Department to that recipient during the pendency of that recipient's application for SSI is set forth in W.A.M. § 2600(D) as follows:

The GA applicant or GA household member who has a pending SSI application, or who is being referred by the Department to the Social Security Administration (SSA) to apply for SSI, must sign a Recovery of General Assistance Agreement which authorizes SSA to send the initial check to this Department so that the amount of GA received can be deducted. The deduction will be made regardless of the amount of the initial SSI check. The deduction shall be made for GA issued during the period from the first day of eligibility for SSI, or the day the Recovery of General Assistance Agreement is signed if later, to the date the initial SSI check is received by the Department.

. . .

Any remainder due to the SSI recipient shall be sent to him/her by the Department within 10 days. . .

The petitioner in this case signed a Recovery of General Assistance Agreement that was fully in accord with the above provisions. Unfortunately, there is no provision in the regulations that would allow, much less require, the Department to waive recovery in cases of individual hardship.¹

¹ The petitioner, who was initially represented by an attorney in this matter (the attorney withdrew her representation prior to the hearing), was advised at the hearing to discuss with her attorney whether she is receiving proper coverage under Medicaid for all her claimed medical expenses.

Inasmuch as the Department's decision in this matter is in accord with the regulations, the Board is bound by law to affirm. 3 V.S.A. §3091(d) and Fair Hearing Rule No. 17.

#